

REMARKS

This Application has been carefully reviewed in light of the Decision from the Board of Patent Appeals and Interferences decided April 28, 2009 ("the Decision"). At the time of the Decision, Claims 1-17 were pending in this Application. The Board maintained the Examiner's rejections of Claims 1-17.

Claims 1 and 9 are herein amended. Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 103

Claims 1-17 stand rejected under 35 U.S.C. §102(e) as being unpatentable over U.S. Patent No. 6,982,950 issued to Gardner ("*Gardner*").

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "the identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Further, in order to establish a prima facie case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

Applicants respectfully submit that the amended claims are allowable over *Gardner* at least because *Gardner* does not teach every limitation of such amended claims. For example, amended Claim 1 teaches:

1. A method for setting up and/or clearing a communications link via communication devices of at least a first and a second type in a system including a control network and a separate data transport network based on the same physical network, the method comprising:

using the control network to signal the first and second types of communication devices to control the setting up and/or clearing of communications links between the first and second types of communication devices, wherein the control signals are communicated via a central device of the control network; and

using at least one decentralized switching device of the data transport network to provide data communication paths between the first and second types of communication devices, such that the data communications between the first and second types of communication devices are not routed through the central device of the control network.

As another example, amended independent Claim 9 teaches:

9. A system for setting up and/or clearing a communications link via communication devices of at least a first and a second type, comprising:

a transport network to provide the communications link between a first communication device of a first type and a second communication device of a second type;

a control network to control the setting up and/or clearing of the communications link between the first and second communication devices;

a switching matrix to provide the communications link between the first and second communication devices; and

means for controlling the setting up and/or clearing of connections in the transport network through the control network, the means being operatively connected to the switching matrix, and connection control information for the switching matrix being supplied to them as part of a control information item;

wherein the switching matrix is decentralized from a central device of the control network in order to provide a backup connection between the first and second communication devices independent of the central device of the control network.

Gardner does not teach at least the highlighted limitations of amended Claims 1 and 9 above. If the Examiner believes that *Gardner* does teach these limitations, Applicants request that the Examiner indicate the exact passages that allegedly teach each of these limitations.

For at least these reasons, Applicants respectfully request reconsideration and allowance of independent Claims 1, 8, and 12, as well as all claims that depend therefrom.

Request for Continued Examination

Applicants respectfully submit a Request for Continued Examination (RCE) Transmittal. The Commissioner is authorized to charge any fees required to Deposit Account 50-4871 in order to effectuate these filings

Association of Customer Number and Change of Correspondence Address

Applicants respectfully request that all papers pertaining to the above-captioned patent application be associated with Customer No. **86528**, and direct all correspondence pertaining to this patent application to practitioners at Customer Number **86528**. All telephone calls should be directed to Eric M. Grabski at 512.457.2030. A Revocation and Power of Attorney will be filed shortly.

CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants enclose a Request for Continued Examination (RCE) and authorize the Commissioner to charge \$810.00 (RCE fee) to Deposit Account No. 50-4871 of King & Spalding LLP.

Applicants believe there are no other fees due at this time. However, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-4871 of King & Spalding L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.457.2030.

Respectfully submitted,
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Date: June 29, 2009

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